

Background Credentials

ET holding duties
testify before

St. Louis community
that vocal - 1st per
see - 1st
received -

How many times saw/interview
what helped

School - Degrees

Professional Association
organization

Review his -
Circumstances -
perspective

giving up yes - what can tell

①

X-Rays -

Remember wheels fell off -

at some pt - didn't get guidance.

②

Rehabilitation
adjust well - in prison

adjusted well

Reviewed records at
H & JC

unblemished productive
Supervision

Orange - black
minimize -
Kam - so fast

S

More overbearing - don't develop - Christian - don't fight back

Quince - Shattering impact

Pulled on 5 - 9 - 2 Soph

Class clown - beat up next day try to make friends

Winton Terrace - wrong corner - drink & smoke

Hanging young - kids -

fit in

003371

Central Baptist - private ^{mother} ^{if she would not send back if he is going to jail}
 father & mother - Divorced

School

Not Healthy

Money, low grade

peer relations

moved into Woodward District

Picked up for 5th or 6th, abused on the

Mother & Son's

Religious

Mother - at 18 could not control - sent to live w father -

Discipline - Spanking w hand - belt

Divorced - Age 6

Father says - mother would take Lee's

Wanted Lee to be his own man - not like other - Blame

Lee & Lee Sr split up several times - Lee Sr. met the mother as father - for Lee - Divorced 1971

Lee Sr

son

2 daughters

Father - at 17 Lee caught using drugs

characterizing marriage to Geo - years bad arguments over - it, car, clothes -

drugs - alcohol by dad

Divorced - 20 weekend visitation

Cont - 12 hrs/day - City - 8 hrs/day - lived long his -

Mother - Betty - then Georgia - then Betty

mother - felt Lee Sr. - Alcoholism, B.O.D. - long problems, denial

Substance Abuse

May - 15-16

mother → Alcohol - 4 May 17-18 - gave in to peer pressure - wanted to be cool

Lee sneaked into home - 400g - Betty yelled at - father was not with outland

Fights/Beats

assault on him - Brass knuckles

~17 - Lee jumped - Behavior - deteriorated

~19 - jumped - gun to his head - chain, shoes, sweat shirt

Lee - 18 applied for G.L.C.P. - not accepted

Religious
Mother - Church as child
Sister married to Minister
Nephew Deacon

Mother - Chedden
Beverly - 1st H
Took + Robin
Lee

Gen Mold - 1945 - 227-5
Standard Textile - 77-5

003373

THE JUDGE, JUDGE: 92601
HAMILTON, COURT JUVENILE RECORD OF COMPLAINTS AS OF 8/11/92

PERSONAL INFORMATION

NAME: MOORE LEE E JOB: 11/11/92
IDNO: 0001271
FIRST CASE ENTERED: 04/10/91 LAST CASE 3 TRIAL: 8/11/92
EXPUNGEMENT REVIEW: 12/14/92
SOC.SEC.NO. 15A-74-1746
FATHER: MOORE LEE
MOTHER: MOORE/GEORGINA
CHILD'S ADDRESS: 61011 MEREDITH DA JINTI CH/45231
FATHER'S ADDRESS: 61011 MEREDITH /DA/ JINTI CH/45231
MOTHER'S ADDRESS: 61011 MEREDITH /DA/ JINTI CH/45231

CHILD INQUIRY AND FULLY INFORMATION

CASE NO: /92/011271 I DATE OF FILING: 08/11/91
COMPLAINT: DRUG ABUSE
AGENCY: DATE
DEGREE: M SECTION: 2925-11 /ORDN
CASE STATUS: 10/05/92 CASE DISPOSED

ACK/

DATE	DISPOSITION	JUDGE/REFEREE
08/11/92	BOND SET: TYPE: CASH AMOUNT \$ 200	DUBAI
08/14/92	CONTINUANCE DATE: 8/14/92 POSSIBLE BOND OVER	DUBAI
08/20/92	PROBATION: PROB FOR INVESTIGATION	DEMOTT
08/20/92	FINDING: ADJUDGED DELINQUENT	DEMOTT
08/20/92	CONTINUANCE DATE: 8/20/92 TRIAL	GROSSMANN
08/20/92	PLEA: ADMIT	DEMOTT
10/05/92	INVESTIGATION TERMINATED	DEMOTT
10/05/92	PROBATION: CONTINUED PROBATION	DEMOTT
10/05/92	FINE: FINE: \$ 50	DEMOTT
10/05/92	COURT COSTS: COSTS: \$ 15 REMITTED: \$ 15	DEMOTT
10/05/92	CONTINUANCE DATE: 10/05/92 DISPOSITION	DEMOTT
10/05/92	COUNSEL: COUNSEL PRESENT	DEMOTT

BEGIN EXPUNGEMENT ELIGIBILITY: 10/05/92

ACK/

CASE NO: /92/068067 I DATE OF FILING: 06/01/92
COMPLAINT: THEFT M1F4
DEGREE: 3 SECTION: 2913-02 /ORDN
CASE STATUS: 06/11/92 CASE DISPOSED

06/11/92	ACCEPT TRANSFER	DEMOTT
06/11/92	COMMITMENT: SUPER COMM DEPT OF YOUTH SERV	DEMOTT
06/11/92	FINDING: ADJ DEL - OUT-OF-COUN TRANS	DEMOTT
06/11/92	COURT COSTS: COSTS: \$ 15	DEMOTT
06/11/92	COUNSEL: COUNSEL PRESENT	DEMOTT
06/11/92	COSTS PAID	DEMOTT

BEGIN EXPUNGEMENT ELIGIBILITY: 06/11/92
REMARKS: ADM TRANSFER FROM BUTLER COUNTY

003374

1-82
 06/11/92 DATE OF FILING:
 DEGREE: F4 SECTION: 2913-020T /ORON
 CASE STATUS: 06/11/92 CASE DISPOSED
 ACK/

06/11/92	ACCEPT TRANSFER		DEMOTT
06/11/92	COMMITMENT:	SUSP COMM DEPT OF YOUTH SERV	DEMOTT
06/11/92	FINDING:	ADJ DEL - OUT-OF-COUN TRANS	DEMOTT
06/11/92	COURT COSTS:	COSTS: \$ 10	DEMOTT
06/11/92	COUNSEL:	COUNSEL PRESENT	DEMOTT
06/11/92	COSTS PAID		DEMOTT

BEGIN EXPUNGEMENT ELIGIBILITY: 06/11/92
 REMARKS: ADM TRANSFER FROM BUTLER COUNTY

CASE NO: 92/008065 I DATE OF FILING: 06/11/92
 COMPLAINT: ATTEMPT GRAND THEFT F4
 DEGREE: F4 SECTION: 2913-020T /ORON
 CASE STATUS: 06/11/92 CASE DISPOSED

06/11/92	ACCEPT TRANSFER		DEMOTT
06/11/92	COMMITMENT:	SUSP COMM DEPT OF YOUTH SERV	DEMOTT
06/11/92	FINDING:	ADJ DEL - OUT-OF-COUN TRANS	DEMOTT
06/11/92	COURT COSTS:	COSTS: \$ 15	DEMOTT
06/11/92	COUNSEL:	COUNSEL PRESENT	DEMOTT
ACK/			
06/11/92	COSTS PAID		DEMOTT

BEGIN EXPUNGEMENT ELIGIBILITY: 06/11/92
 REMARKS: ADM TRANSFER FROM BUTLER COUNTY

CASE NO: 92/008064 I DATE OF FILING: 06/11/92
 COMPLAINT: ATTEMPT GRAND THEFT F4
 DEGREE: F4 SECTION: 2913-020T /ORON
 CASE STATUS: 06/11/92 CASE DISPOSED

06/11/92	ACCEPT TRANSFER		DEMOTT
06/11/92	COMMITMENT:	SUSP COMM DEPT OF YOUTH SERV	DEMOTT
06/11/92	FINDING:	ADJ DEL - OUT-OF-COUN TRANS	DEMOTT
06/11/92	COURT COSTS:	COSTS: \$ 15	DEMOTT
06/11/92	COUNSEL:	COUNSEL PRESENT	DEMOTT
06/11/92	COSTS PAID		DEMOTT

BEGIN EXPUNGEMENT ELIGIBILITY: 06/11/92
 ACK/

CASE NO: 92/008067 I DATE OF FILING: 06/11/92
 COMPLAINT: ATTEMPT GRAND THEFT F4
 DEGREE: F4 SECTION: 2913-020T /ORON
 CASE STATUS: 06/11/92 CASE DISPOSED

06/11/92	ACCEPT TRANSFER		DEMOTT
06/11/92	COMMITMENT:	SUSP COMM DEPT OF YOUTH SERV	DEMOTT
06/11/92	FINDING:	ADJ DEL - OUT-OF-COUN TRANS	DEMOTT
06/11/92	COURT COSTS:	COSTS: \$ 15	DEMOTT
06/11/92	COUNSEL:	COUNSEL PRESENT	DEMOTT
06/11/92	COSTS PAID		DEMOTT

BEGIN EXPUNGEMENT ELIGIBILITY: 06/11/92
 REMARKS: ADM TRANSFER FROM BUTLER COUNTY

003375

CASE NO: 792/007597 JV DATE OF FILING: 05/29/92
 COMPLAINT: RSP FC
 ACR/
 DEGREE: FT SECTION: 0910-511 /ORDN
 CASE STATUS: 06/11/92 CASE DISPOSED
 PROBATION OFFICER: KING/PANELA

05/30/92	BOND SET:		BRAZILE
	TYPE: NO BOND- TO BE HELD		
05/31/92	REMAND TO DETENTION:	TO DETENTION	BRAZILE
05/30/92	PROBATION:	FACE FOR INVESTIGATION	BRAZILE
05/30/92	FINDING:	ADJUDGED DELINQUENT	BRAZILE
05/30/92	PLEA:	ADMIT	BRAZILE
06/11/92	REMAND RELEASE DATE:		DEMOTT
06/11/92	REMAND RELEASE DATE:		DEMOTT
06/11/92	INVESTIGATION TERMINATED:		DEMOTT
06/11/92	REFERRAL ENDS:		DEMOTT
06/11/92	WORK DETAIL:	DAILY	DEMOTT
06/11/92	WORK DETAIL:	DAILY	DEMOTT
06/11/92	COMMITMENT:	SUSP COMM DEPT OF YOUTH SERV	DEMOTT
06/11/92	COMMITMENT:	SUSP COMM DEPT OF YOUTH SERV	DEMOTT
06/11/92	PROBATION:	PROBATION	DEMOTT
06/11/92	PROBATION:	PROBATION	DEMOTT
06/11/92	COURT COSTS:	COSTS: \$ 15	DEMOTT
ACK/			
06/11/92	CONTINUANCE DATE:	6/11/92 DISPOSITION	BRAZILE
06/11/92	COUNSEL:	COUNSEL PRESENT	DEMOTT
06/11/92	COUNSEL:	COUNSEL PRESENT	DEMOTT
06/11/92	COSTS PAID:		DEMOTT
06/30/92	WORK DETAIL COMPLETE:		DEMOTT
12/14/92	PROBATION RELEASE:		JUDGE

BEGIN EMPLOYMENT ELIGIBILITY: 12/14/92
 REMARK: 3: 11

CASE NO: 791/005011 I DATE OF FILING: 04/02/91
 COMPLAINT: CARRYING CONCEALED WEAPONM1F3F2
 AGENCY: EPTA
 DEGREE: M1 SECTION: 2923-12 /CPDN
 CASE STATUS: 06/07/91 CASE DISPOSED
 PROBATION OFFICER: KING/PANELA

05/06/91	HOUSE ARREST:	DA 15:30	HOLTMEIER
05/06/91	PROBATION:	FACE FOR INVESTIGATION	HOLTMEIER
ACK/			
05/06/91	PLEA:	ADMIT	HOLTMEIER
05/07/91	INVESTIGATION TERMINATED:		HOLTMEIER
06/07/91	FINE:	FINE: \$ 50	HOLTMEIER
06/07/91	COURT COSTS:	COSTS: \$ 15	HOLTMEIER
06/07/91	CONTINUANCE DATE:	6/07/91 DISPOSITION	HOLTMEIER
06/07/91	COUNSEL:	COUNSEL PRESENT	HOLTMEIER
07/12/91	NOT FEE PAID		HOLTMEIER
07/12/91	FINE PAID		HOLTMEIER
07/12/91	COSTS PAID		HOLTMEIER

BEGIN EMPLOYMENT ELIGIBILITY: 06/07/91
 REMARK: 3: 11

003376

COMPLAINT: DISORDERLY CONDUCT

PMMA

AGENCY: BPS

DEGREE: M2 SECTION: 2917-11 /CRON

CASE STATUS: 05/06/91 CASE DISPOSED

ACK:

05/06/91 COURT COSTS:

~~COSTS: \$ 15~~

HOLTMEIER

05/06/91 COUNSEL:

~~COUNSEL PRESENT~~

HOLTMEIER

05/06/91 FLEA:

~~ADMIT~~

HOLTMEIER

06/06/91 FET REP PAID

HOLTMEIER

06/06/91 COSTS PAID

HOLTMEIER

BEGIN EXPUNEMENT ELIGIBILITY: 05/06/91

REMARK 3: FF

TRAFFIC INFORMATION

NO TRAFFIC INFO FOR IDNO: 00092632

DEPENDENCY INFORMATION

NO DEPENDENCY INFO FOR IDNO: 00092632

003377

DC

9/22/99

Purpose. Specific intent

Ernest Cope-

240m GIN DIME DAG → several joints

Prepwork - called

~~Malcolm~~Don't think Malcolm - 1990s
Not Gendreau

- Can make -

Last 3's purpose

When group
to parent influence
school

MITIGATING FACTORS

→ YOUTH Any other

- INFLUENCE MARIJUANA & ALCOHOL

- adapting to imprisonment

- REMORSE

- unstable life - Divorced

Lack of role figure - Mother - being

strong disciplinarian

- Picked on

- Source for the 2 Refs - NH Death

- Unsworn statement

- Admission to Shorten/Cooperation

State - G -

May + Alcohol - thinking & feeling

- intense - original concentration -

memory - inability to control lack
of inhibitions

G - my W

Academics

Vocational

Relationships

Health

Drug

Brightest factor - ramped

a person effort

Summary in terms of Mitigation

Factors

Plus Teaching

Just don't shoot someone
emulating just fell apart

003378

Had with the unanimous

9.20
Tomorrow
Pho Phre 11/17 AVO to Many blt
357-8977

Jerry Lee

Lack of Nurturing *State v Powell* (1990) 49 Oh St. 3d 255

Offender's childhood experiences

unhappy upbringing - emotional disturbances

Eddings v Oklahoma (1982) 455 US 104

Need Psychological testimony linking offender's involvement in
the offense w attitudes he acquired as result of an abusive
childhood

Having character background
juvenile
factors

Adverse childhood where offender's early life shaped a
personality w serious character defects

State v Smith (1991) 61 Oh St. 3d 287,
286

Youth - low weight

An expression of deep sorrow + remorse is entitled to

some weight - *State v Brewer* (1990) 48 Oh St. 3d 50, 14

Offender's Potential for Rehabilitation - *Hitchcock v Suggs*
(1987) 481 U.S. 393, 397

Good prison record - between arrest + trial was relevant
Skipp v South Carolina (1986) 476 U.S. 1

evidence of Co-Def's life sentence properly considered as
mitigation - *Bassett v State* (Fla 1984) 449 So 2d 802

alcoholism + drug addiction - *State v Green* (1993)
66 Oh St. 3d 149

Psychological Weakness - *State v Smith*

Def: Cooperation - *State v Smith* (1991)

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State v. Ames (1991) 62 Ch St. 3d 278

Suffering - mental anguish of Victim Not an Agg Circumstance

Milegates - D. Fisher - drug abuse

Pros

Can be cont. & plan his behavior No mental disease or defect
capable of purposeful action, forming intent
know consequences of his actions

Mse DC Remorse

M. Hughes fails to

alcohol & drug dependency
psychological weakness
Kernose

dependence on alcohol & drug of offense

State v. Smith (1991) 61 Ch St. 5d 284

SJD 51

State v. Penix (1987) 32 Ch St. 3d 369, 513/1222 119

003280

Dear Dad

From
Sidham
9-26-94

Whats up dad? im doing pretty good, I hope you are too, I really dont have to much to talk about but I do want you to know that im very sorry that I was not a better son, I wish I would have been, I ~~just about~~ ~~had~~ ~~all~~ ~~sort~~ ~~of~~ ~~problems~~ ~~in~~ ~~my~~ ~~life~~ and I felt like I couldnt talk to anyone about it, like sometimes I would be sitting downstairs with you and I would want to talk to you about it but I just wouldnt, the truth is I have a problem communicating with people I dont know very well and I guess I didnt know you like I should have known you, I hope you understand what im saying.

I was not smoking crack, but I would ~~drink & smoke weed constantly~~ and I only did that because that was the only way I could get my mind off the problems in my life, its like I was running from them, but since ive been locked up I have had time to think about why I turned out this way, I guess I was like a pressure cooker I had all of those feelings and problems bottled up inside of me eventually I just busted.

Sometimes I would even think

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ABOUT how all of these problems would go away if I just killed myself, I know I didn't want to do that, but that is something I shouldn't have even been thinking about, but I have a stable mind now that I have god in my life & I'm ready to go with the punches because I know everything is all right.

Please tell Mrs. Betty that I'm sorry for not treating her better than I did, I do appreciate her because she allowed me to stay, sleep and definitely eat in her home and I know that she did not have to do any of that for me.

I wish it wouldn't have took all of this for me to come to my senses, but it did and now I have to live with it.

One more thing before I end this letter, I had quite a few pictures on my mirror & in my drawers do you think you can mail them to me? Well until next time bye!

Love

Lee Edward Moore

From
Sidham
9-26-94

Dear MAMA:

I Really dont know what to say -
So im just going to get to the
point. I know I have been a
big disappointment to you & Daddy but
I want you to know that the way
I turned out is NOT your fault
at all, you were the best Mother
a son could have I just couldn't
Realize you were trying to make
A good person out of me. I Really
Think My Downfall was Acceptance
From other kids & also Drinking &
Drugs, im NOT blaming anyone for
My Mistakes because I should have
been a stronger person, because I knew
that Drinking & Smoking was wrong but
All I was concerned with was being
Accepted by kids at my school.

MAMA, Kids Actually Made My young
life Miserable. I got beat up, I got
Chased home from school All the time &
this made me have a very low self
Esteem, in Jr. high school I was
Actually Scared to Ride My School
bus home because People would Take
My hats And pick fights with me. I
Didnt have ANY Friends at all when

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I was in jr. high school Except for younger Kids like Micheal Across the Street and Kareem Around The Corner.

That is why I Stayed in Trouble in School, being The Class Clown To Make People laugh so I Could be Accepted like other Kids, but Really all I was Doing was Playing Myself!

by The Time I got in high School Things were getting a little better, I Could Fight now because of getting my ass Kicked so much when I was younger Excuse Mr. French (☺).

Anyway I Started Maturing in The body but NOT in The Mind & People were Accepting ME Especially girls & I just lost My Mind Cause I Never Experienced Popularity before.

Time goes on & me & My Clique are like The Kodest and This MAKES Me feel very good Cause we got The girls The Money & The "Clout."

but one day I'm hangin with "The boys" And some guys Come over with some beer & say lets get drunk and Everybody Says Kool I Really didnt want to but I was weak & I didnt want To lose My Acceptance with The Clique. So I Drunk with them. This went on

for a while And Eventually it was a Normal Thing To drink A 40oz with The boys it became a habit & I Started Really Messing up in School but I didnt Care Cause I had "Clout" & girls And I wasnt Thinking About The Future, I didnt have a Care in The world.

Then I Started getting in Trouble with The law. I would hide My Drinks from you but occasionally I would Come home very drunk & sick you know what im Talking About & Eventually you just got Fed up because I was NOT doing Nothing in School I was getting in Trouble with The law & I would Come home Drunk. So you Through Me out and I Can understand That

but Mama, That's The worst Thing you Could have done, I Started living with daddy And It was like I was on My own, he gave Me freedom To do what I wanted To do, I had Never had That And I wasnt Even Ready for it, but I liked it I fel like I was a grown MAN. but in Reality I was a young boy with all This Freedom I didnt Need And

Could not control it, I spent all of my time drinking & smokin weed with the boys & no time for God & school. When I enrolled into Woodward it was like withdrawing from school completely, it was so easy to skip school & not even to go I just didn't attend, I had all this freedom I just wanted to have fun. I wasn't thinking about school.

I started getting in trouble with the truant officer & they were threatening to kick me out. I did better for a minute then started slipping again & eventually dropped out. I spent all my time drinking, screwing, smokin weed & hanging with the boys "N" the hood. I hardly ever spent any time at dad's house cause I was always in the streets. I did try to enroll into the Job Corps Trade School but they wouldn't except me because of that drug charge I picked up when I was younger. Then I started feeling useless & depressed.

I knew how you must have been feeling & I felt so ashamed of myself I didn't want to be around you.

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I felt like There was Nothing I Could Do I had no Skills & I Couldn't Even learn one, I felt Trapped and I didn't want To work at McDonalds because I was 19 yrs old and I guess I had Too Much pride, but look where it got Me. Its A Shame That all of This had To happen for Me To Come To My Senses & Realize I had a problem, I wish I Could have been a better Son and I Am So Sorry for disappointing Everybody but Now I Know That when All of This is over I will be A better person because I have Turned My life over To God & I have faith in him.

I understand Everything That you Ever Tried To Teach Me And Now I understand That you were Trying To Make Me have a good life, I just wish I Could have Seen it when I was younger. I Am So Sorry Any of This happened, if I Could Start From The beginning I would live My life A Totally Different way.

And as Far as Shatunda is Concerned I Dont Need her or her Mamas Support because I have My MAMA AND My Family's Support

AND MOST important of all I have
The Support of Jesus Christ And
Thats all I Need.

LOVE
YOUR SON
Lee E. Moore Jr.

P.S.

I Love you

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Washington v. State, 362 So.2d 658 (Fla. 1978)(dicta)
[defendant's remorse considered as mitigating];

McCampbell v. State, 421 So.2d 1072 (Fla. 1982)(dicta); *Simons v. State*, 419 So.2d 316 (Fla. 1982)(dicta)
[potential for rehabilitation];

Agan v. State, 445 So.2d 326 (Fla. 1983)
[age mitigating factor might apply to those suffering from infirmities of old age but not in the case of a 54 year old]; See also *State v. Ramseur*, 524 A.2d 188 (N.J. 1987).

Bassett v. State, 449 So.2d 803 (Fla. 1984)
[evidence of co-defendant's life sentence properly considered as mitigation];

State v. Bartholomew, 683 P.2d 1089 (Wash. 1984)
[polygraph results admissible in mitigation at penalty phase];

State v. Davis, 477 A.2d 308 (N.J. 1984)
["evidence...of statistical data based upon empirical studies" even of a general nature admissible if relevant to an individual defendant's potential for rehabilitation];

Huddleston v. State, 475 So.2d 204 (Fla. 1985)
[override improper. Defendant was a drug abuser who lost job, girlfriend got pregnant, parents splitting up, etc.]

State v. Norris, 328 S.E.2d 339 (S.C. 1985)
[defendant can both testify and give closing argument in penalty phase];

Cooper v. Wainwright, 807 F.2d 881 (11th Cir. 1986)
[remand for hearing on opportunity to present non-statutory mitigation];

Floyd v. State, 497 So.2d 1211 (Fla. 1986)
[murder victim's daughter against death penalty - relevant mitigation]; See also *Jackson v. State*, 498 So.2d 406 (Fla. 1986) [judge consider survivors view of death penalty but no jury testimony permitted];

Jeffers v. Ricketts, 627 F.Supp. 1334 (D.Ariz. 1986)
[withdrawn plea offer admissible in mitigation];

Lucas v. State, 490 So.2d 943 (Fla. 1986)
[resentencing jury with right to present non-statutory mitigating];

Skipper v. South Carolina, 106 S.Ct. 1669 (1986)
[good jail conduct admissible under *Lockett*]; See *Truesdale v. Aiken*, 107 S.Ct. 1394 (1987) [*Skipper* retroactive]; *State v. Stewart*, 320 S.E.2d 447 (S.C. 1984) [testimony of jail guards regarding defendant's past jail conduct should have been admitted; "inartful proffer" ok]; *Pickens v. State*, 730 S.W.2d 230 (Ark. 1987) [*Skipper* error: death row good behavior before 2nd trial]; *Davis v. State*, 512 So.2d 1291 (Miss. 1987) [prior prison term can be mitigation]; *Fead v. State*, 512 So.2d 176 (Fla. 1987)
[model prisoner and parolee]; *Jordon v. State*, 518 So.2d 1186 (Miss. 1988) [invention of alternative energy source];

State v. Cooper, 353 S.E.2d 441 (S.C. 1986)
[background of dispute between defendant and victim is mitigating];

Merritt v. State, 523 So.2d 573 (Fla. 1988)

[admission of escape while being transported on another charge three months before indictment in instant case was inadmissible];

People v. Morris, Cal., 756 P.2d 795 (1988)

[evidence of prior homicide by defendant to explain informant's bias improper];

State v. Lafferty, 749 P.2d 1239 (Utah 1988)

[evidence of other crimes offered in aggravation must be proven beyond a reasonable doubt. Claim based on federal constitution, not state law];

State v. Roce, N.J., 548 A.2d 1058 (1988)

[(non-capital) uncharged misconduct admissible only to rebut mitigating character evidence];

Tamme v. Commonwealth, 759 S.W.2d 51 (Ky. 1988)

[conviction and death sentence reversed, in part due to admission of irrelevant and prejudicial unadjudicated homicides introduced at guilt phase];

Foster v. Commonwealth, 827 S.W.2d 670, 679 (1992)

[unadjudicated prior bad acts inadmissible in aggravation, even in cross-examining a defense psychiatrist or on behalf of a co-defendant claiming duress because "admission of bad acts in a capital murder trial is highly prejudicial and ordinarily outweighs any probative value ..."].

3. Victims/Survivors/Pictures

People v. Ramirez, 457 N.E.2d 31 (Ill. 1983)

[error to call victim's widow at penalty phase when no relevant testimony to offer];

Romine v. State, 305 S.E.2d 93 (Ga. 1983)

[testimony of victim's father that he did not want defendant to receive death sentence admissible in mitigation; denial of continuance to secure that testimony reversible error]; See also *Floyd v. State*, 497 So.2d 1211 (Fla. 1986).

Adan v. State, 453 So.2d 1195 (Fla. 1984)

[non-capital; deceased's family member can't testify unless truly necessary];

Ice v. Commonwealth, Ky., 667 S.W.2d 671, 675-76 (1984)

["manner in which photographs of deceased child were introduced through the mother of victim interspersed with questions regarding her great love for the child and the terrible loss she had sustained"];

People v. Levitt, 156 Cal.App.3d 500 (1984)

[bereavement of victim's family not proper aggravating factor for sentence (non-capital case)];

Brandley v. State, 691 S.W.2d 699 (Tex.Cr.App. 1985)

[prosecutor's argument: "Put yourself in shoes of victim's parents..." was error];

Fuselier v. State, 468 So.2d 45 (Miss. 1985)

[victim's family can't sit at prosecution table];

People v. Coleman, 695 P.2d 189 (Cal. 1985)

[victim's hearsay regarding prior threats/fear of defendant error];